



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

December 2, 2015

CERTIFIED RETURN RECEIPT
7014 2870 0001 4231 9241

Brent Sumsion
Geneva Rock Products
1655 West 400 North
P. O. Box 1955
Orem, Utah 84059

Subject: Proposed Assessment for State Cessation Order MC-2015-60-03, Geneva Rock Products, Inc., Point of the Mountain Quarry, M/035/0026, Salt Lake County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Sumsion:

The undersigned has been appointed by the Division of Oil, Gas and Mining as the assessment officer for assessing penalties under rule R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector April Abate on October 8, 2015. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$880.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this cessation order has been considered in determining the facts surrounding the violation and the amount of this penalty.

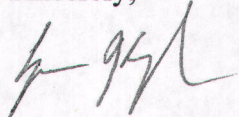
An appeal of both the fact of the violation and of this assessment has been scheduled for January 26, 2016, at 10:00 AM at the Division's office. The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. The assessment conference will immediately following the review of the fact of the violation. If the fact of the violation is upheld and there is a civil penalty associated with the cessation order, you will be given further instructions about appeal and payment options.



Page 2 of 6
Brent Sumsion
M/035/0026
December 2, 2015

Thank you for your cooperation. Please call me at 801-538-5310 if you have questions about the assessment or other aspects of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn Kunzler', with a stylized flourish at the end.

Lynn Kunzler
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet

cc: Sheri Sasaki, Accounting
Vickie Southwick, Exec. Sec.

P:\GROUPS\MINERALS\WP\M035-SaltLake\M0350026-PointMtn\Noncompliance\Pass-7019-12012015.doc

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

NOV / CO #: MC-2015-60-03 (as modified) PERMIT: M/035/0026
COMPANY / MINE Geneva Rock Products, Inc. / Point of the Mountain (So. Hansen)

ASSESSMENT DATE December 1, 2015
ASSESSMENT OFFICER Lynn Kunzler

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)
(assign points according to A or B)

A. EVENT VIOLATIONS (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Activity outside the approved permit area, injury to the public, Damage to property, Conducting activities without appropriate approvals, Environmental Harm, and Loss of reclamation/revegetation potential.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>POINT RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS: Of the six listed events, 2 (one third) are considered to have occurred (Activity outside approved permit area, and conducting activities without appropriate approvals. Of the other 4 events, it is considered unlikely to occur, since

the operator had provided environmental studies that allowed the Division to evaluate impacts of mining on the public and environment. While there were some claims to personal injury, no injury was documented so it has to be assumed it has not occurred. Points are assigned at the midpoint of the 'Likely' range due to the fact the two of the six have occurred, and likelihood of the other 4 occurring is expected to be low.

3. What is the extent of actual or potential damage: No actual damage at this time. Potential damage is low since the Division has evaluated potential impacts of mining and any proposed mitigation during the permitting process. For damage to occur with regards to loss of reclamation/revegetation potential, the Company would need to forfeit the surety, the Division would need to reclaim the mine, and not have sufficient funds to fully reclaim. Potential damage to persons (health effects of increased dust) is also considered low – not that dust can't contribute to health problems, but at what level. Considering the short period that about 3 additional acres were disturbed, and that the Division is not aware of any air quality/fugitive dust violations with the State Dept. of Environmental Quality, the likelihood that this violation will contribute significantly to health problems is also considered unlikely.

ASSIGN DAMAGE POINTS(RANGE 0-25) 5

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

PROVIDE AN EXPLANATION OF POINTS: Since no damage has occurred and potential damage is considered low or unlikely for all six of the events, points are assigned at one-fifth of the range.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS: _____

TOTAL SERIOUSNESS POINTS (A or B) 20

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

A. NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1-15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16-30
STATE DEGREE OF NEGLIGENCE <u>Negligent</u>	

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS: A prudent operator should have known where his permit boundary was and what areas were covered in the reclamation surety. Although the operator claims the area was permitted, The area subject to this violation is being accessed through an adjoining permit (Sage Canyon (M/049/0071). The bonded area for either of the permits did not include this area, so, while the area has been evaluated for permitting, until a surety is provided, it is not considered fully permitted. Points are assigned at the mid-point of the Negligence range.

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

Has Violation Been Abated? No

Since the violation has yet to be abated, good faith points are not considered as part of this assessment. If the violation is abated within the time limits given, a re-assessment can be made with good faith points awarded.

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	<u>Point Range</u>
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	<u>Point Range</u>
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS: _____

V. **ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>28</u>
	TOTAL ASSESSED FINE	<u>\$880.00</u>